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**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
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CHAPTER 313

HOUSE BILL 2037

AN ACT

AMENDING SECTIONS 29-1075, 29-1103, 36-3294, 41-311, 41-312, 41-313 AND 41-330, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-332; AMENDING SECTIONS 41-351 AND 41-353, ARIZONA REVISED STATUTES; REPEALING SECTION 41-356, ARIZONA REVISED STATUTES; AMENDING SECTION 44-1272, ARIZONA REVISED STATUTES; REPEALING TITLE 44, CHAPTER 11, ARTICLE 2, ARIZONA REVISED STATUTES; AMENDING SECTIONS 44-6552 AND 44-6561, ARIZONA REVISED STATUTES; AMENDING LAWS 2008, CHAPTER 291, SECTION 9; RELATING TO THE SECRETARY OF STATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 29-1075, Arizona Revised Statutes, is amended to
3 read:

4 29-1075. Statement of dissolution

5 A. After dissolution, a partner who has not wrongfully dissociated may
6 file a statement of dissolution stating the name of the partnership and that
7 the partnership has dissolved and is winding up its business.

8 B. A statement of dissolution cancels a filed statement of partnership
9 authority for the purposes of section 29-1023, subsection D and is a
10 limitation on authority for the purposes of section 29-1023, subsection E.

11 C. For the purposes of sections 29-1021 and 29-1074, a person who is
12 not a partner is deemed to have notice of the dissolution and the limitation
13 on the partners' authority as a result of the statement of dissolution ninety
14 days after it is filed.

15 D. After filing and, if appropriate, recording a statement of
16 dissolution, a dissolved partnership may file and, if appropriate, record a
17 statement of partnership authority that operates with respect to a person who
18 is not a partner as provided in section 29-1023, subsections D and E in any
19 transaction, whether or not the transaction is appropriate for winding up the
20 partnership business.

21 E. IN ORDER FOR A PARTNERSHIP TO FILE A STATEMENT OF DISSOLUTION WHERE
22 THAT PARTNERSHIP HAS NOT PREVIOUSLY FILED A STATEMENT OF PARTNERSHIP
23 AUTHORITY WITH THE SECRETARY OF STATE, THE PARTNERSHIP MUST FIRST FILE A
24 STATEMENT OF PARTNERSHIP AUTHORITY WITH THE SECRETARY OF STATE PURSUANT TO
25 SECTION 29-1023. THE SECRETARY OF STATE SHALL NOT ACCEPT ANY STATEMENT OF
26 DISSOLUTION FOR WHICH A STATEMENT OF PARTNERSHIP AUTHORITY HAS NOT FIRST BEEN
27 FILED WITH THE SECRETARY OF STATE.

28 Sec. 2. Section 29-1103, Arizona Revised Statutes, is amended to read:

29 29-1103. Publication and annual reports; late filing penalty

30 A. Within sixty days after the filing with the secretary of state of a
31 statement of qualification, there shall be published in a newspaper of
32 general circulation in the county of the limited liability partnership's
33 chief executive office, or if the limited liability partnership's chief
34 executive office is not located in this state, in the county of the limited
35 liability partnership's office in this state, or if none, the county of the
36 limited liability ~~company's~~ PARTNERSHIP'S statutory agent, for three
37 consecutive publications, a copy of the statement of qualification. ~~An~~
38 ~~affidavit evidencing publication shall be filed with the secretary of state~~
39 ~~within ninety days after the filing of the statement of qualification.~~

40 B. A limited liability partnership and a foreign limited liability
41 partnership authorized to transact business in this state shall file an
42 annual report with the office of the secretary of state that sets forth all
43 of the following:

1 1. The name of the limited liability partnership and the state or
2 country under whose laws the foreign limited liability partnership is formed
3 or created.

4 2. The current street address of the office required to be set forth
5 in section 29-1101, subsection C, paragraph 2.

6 3. The name and street address of its agent for service of process in
7 this state.

8 C. An annual report must be filed between January 1 and April 30 of
9 each year following the calendar year in which a partnership or limited
10 partnership files a statement of qualification TO BECOME A LIMITED LIABILITY
11 PARTNERSHIP or a foreign partnership becomes authorized to transact business
12 in this state. IF A LIMITED LIABILITY PARTNERSHIP IS DELINQUENT IN FILING
13 ITS ANNUAL REPORT, THE SECRETARY OF STATE MAY ASSESS A LATE FILING PENALTY
14 WHEN THE LIMITED LIABILITY PARTNERSHIP SUBMITS ITS ANNUAL REPORT.

15 D. The secretary of state may administratively revoke the statement of
16 qualification of a ~~partnership or~~ limited LIABILITY partnership if the
17 secretary of state determines that the statement of qualification does not
18 conform to the filing provisions of this article or if the limited liability
19 partnership fails to ~~file an affidavit of publication within the time~~
20 ~~required by subsection A of this section or~~ file an annual report when due or
21 to pay the required filing fee OR FAILS TO PERFORM THE PUBLICATION
22 REQUIREMENTS OF SUBSECTION A OF THIS SECTION. The secretary of state must
23 provide the limited liability partnership at least sixty days' written notice
24 of the intent to revoke the statement. The notice shall be mailed to the
25 limited liability partnership at its office set forth in the last filed
26 statement of qualification or annual report. The notice must specify the
27 nonconformance, ~~the affidavit of publication that has not been filed,~~ THAT
28 THE STATEMENT OF QUALIFICATION HAS NOT BEEN PUBLISHED PURSUANT TO SUBSECTION
29 A OF THIS SECTION, the annual reports that have not been filed, ~~or the fees~~
30 that have not been paid, ~~and the future effective date of revocation.~~ The
31 revocation will not be effective if the specified filing requirements,
32 ~~affidavit~~ EVIDENCE of publication or annual reports are filed and the
33 specified fees are paid ~~prior to~~ BEFORE the specified effective date of
34 revocation.

35 E. A revocation under subsection D of this section only affects a
36 partnership's or limited partnership's status as a limited liability
37 partnership and does not constitute an event of dissolution of the
38 partnership or limited partnership.

39 F. A partnership or limited partnership whose statement has been
40 administratively revoked may apply to the secretary of state for
41 reinstatement within two years after the effective date of the revocation.
42 The application shall recite the name of the partnership or limited
43 partnership and the effective date of the revocation and state that the
44 grounds for revocation either did not exist or have been corrected. If
45 another corporation or partnership has adopted the name of the limited

1 liability partnership or another person has adopted the name of the limited
2 liability partnership as a trade name, the application shall be accompanied
3 by an amendment to the statement of foreign qualification that is in
4 accordance with section 29-1105 and that adopts a new name for the limited
5 liability partnership that complies with section 29-1102.

6 G. A reinstatement under subsection F of this section relates back to
7 and takes effect as of the effective date of the administrative revocation,
8 and the partnership's or limited partnership's status as a limited liability
9 partnership continues as if the administrative revocation never occurred.

10 H. An amendment to the statement of qualification shall be filed by a
11 limited liability partnership or foreign limited liability partnership not
12 later than sixty days after the occurrence of any of the following:

13 1. A change in the name of the limited liability partnership.

14 2. A change in the address of the chief executive office of the
15 partnership.

16 3. The partnership or limited partnership has knowledge that a
17 material statement in the statement of qualification was false or inaccurate
18 when made or that any facts described therein have changed, making the
19 statement of qualification inaccurate in any material respect.

20 I. An amendment to the statement of qualification may be filed for any
21 other proper purpose. The filing of a statement of cancellation by or on
22 behalf of a partnership or limited partnership pursuant to this section shall
23 be effective only to cancel the partnership's or limited partnership's
24 qualification as a limited liability partnership and, unless it specifically
25 so provides, shall not indicate the dissolution of the partnership or limited
26 partnership. ~~Upon~~ ON any revocation or the filing of any statement of
27 cancellation, the secretary of state shall be the agent for service of
28 process in any action, suit or proceeding based ~~upon~~ ON any cause of action
29 arising during the time the limited liability partnership was qualified under
30 section 29-1101 or the foreign limited liability partnership was authorized
31 to transact business in this state.

32 Sec. 3. Section 36-3294, Arizona Revised Statutes, is amended to read:
33 36-3294. Registration; purge of registered documents

34 A. On receipt of a completed registration form, the secretary of state
35 shall create a digital reproduction of the ~~form~~ DOCUMENT, enter the
36 reproduced ~~form~~ DOCUMENT into the health care directives registry database
37 and assign each ~~registration~~ REGISTERED DOCUMENT a unique file number and
38 password.

39 B. The secretary of state is not required to review a document to
40 ensure that it complies with the particular statutory requirements applicable
41 to the document.

42 C. After entering the reproduced document into the registry database,
43 the secretary of state shall ~~return the original document to~~ PROVIDE the
44 person who submitted the document and ~~provide that person with a printed~~

1 record of the information entered into the database under the file number and
2 a wallet size card that contains the document's file number and a password.

3 D. The person who submitted the document shall review the printed
4 record. If the information is accurate, the person shall check the box
5 marked "no corrections required" and sign and return the printed record to
6 the secretary of state's office.

7 E. If the person who submitted the document determines that the
8 printed record is inaccurate, the person shall correct the information and
9 sign and return the corrected printed record to the secretary of state. On
10 receipt of a corrected printed record, the secretary of state shall make the
11 proper corrections and send a corrected printed record to the person who
12 submitted the document. If the information is accurate, the person shall
13 check the box marked "no corrections required" and sign and return the
14 printed record to the secretary of state's office.

15 F. The secretary of state shall activate the entry into the health
16 care directives registry database only after receiving a printed record
17 marked "no corrections required" OR WHEN MAKING CHANGES THAT ARE INDICATED ON
18 THE PRINTED RECORD.

19 G. The secretary of state shall delete a document filed with the
20 registry pursuant to this section ~~when~~ IF the secretary of state receives a
21 revocation of a document along with that document's file number and password.
22 THE SECRETARY OF STATE MAY DELETE A NONACTIVE DOCUMENT FILED WITH THE
23 REGISTRY PURSUANT TO THIS SECTION IF THE SECRETARY OF STATE DOES NOT RECEIVE
24 A RESPONSE PURSUANT TO SUBSECTIONS D AND E WITHIN NINETY DAYS AFTER PROVIDING
25 THE INFORMATION PRESCRIBED BY SUBSECTIONS C AND E.

26 H. The entry of a document pursuant to this article does not:

- 27 1. Affect the validity of the document.
28 2. Relate to the accuracy of information contained in the document.
29 3. Create a presumption regarding the validity of the document or the
30 accuracy of information contained in the document.

31 I. The secretary of state shall purge a document filed with the
32 registry on verification by the director of the department of health services
33 of the death of the person who submitted the document. The secretary of
34 state shall purge the registry of documents pursuant to this subsection at
35 least once every five years. The director of the department of health
36 services shall share its registry of death certificates with the secretary of
37 state in order to conduct the document purge required by this subsection.

38 J. THE SECRETARY OF STATE MAY ESTABLISH AN ELECTRONIC MEANS OF
39 CARRYING OUT THE REQUIREMENTS OF THIS SECTION.

40 Sec. 4. Section 41-311, Arizona Revised Statutes, is amended to read:

41 41-311. Definitions

42 In this article, unless the context otherwise requires:

- 43 1. "Acknowledgment" means a notarial act in which a notary certifies
44 that a signer, whose identity is proven by satisfactory evidence, appeared
45 before the notary and acknowledged that the signer signed the document.

1 2. "Commission" means to authorize to perform notarial acts and the
2 written authority to perform those acts.

3 3. "Copy certification" means a notarial act in which the notary
4 certifies that the notary has made a photocopy of an original document that
5 is neither a public record nor publicly recordable.

6 4. "Identity is personally known" means familiarity with an individual
7 resulting from interactions with that person over a sufficient time to
8 eliminate reasonable doubt that the individual has the identity claimed.

9 5. "Incomplete document" means a document that has not been signed
10 where a signature line is provided or where other obvious blanks appear in
11 the document or that lacks a notarial certificate.

12 6. "Jurat" means a notarial act in which the notary certifies that a
13 signer, whose identity is proven by satisfactory evidence, has made in the
14 notary's presence a voluntary signature and has taken an oath or affirmation
15 vouching for the truthfulness of the signed document.

16 7. "Notarial act" or "notarization" means any act that a notary is
17 authorized to perform under section 41-313.

18 8. "Notarial certificate" or "certificate" means the part of or
19 attachment to a notarized document for completion by the notary that bears
20 the notary's signature and seal and states the facts that are attested by the
21 notary in a particular notarization.

22 9. "Notary public" or "notary" means any person commissioned to
23 perform notarial acts under this article.

24 10. "Oath" or "affirmation" means a notarial act or part of a notarial
25 act in which a person made a vow in the presence of the notary under penalty
26 of perjury, with reference made to a supreme being in the case of an oath.

27 11. "Satisfactory evidence of identity" means:

28 (a) ~~That~~ Proof OF IDENTITY is evidenced by one of the following:

29 ~~(a) At least one current form of identification issued by the United~~
30 ~~States government or a state or tribal government with the individual's~~
31 ~~photograph, signature and physical description. The individual's physical~~
32 ~~description contained in the form of identification shall be written and~~
33 ~~shall include at a minimum a description of the individual's height, weight,~~
34 ~~color of hair and color of eyes.~~

35 (i) AN UNEXPIRED DRIVER LICENSE THAT IS ISSUED BY A STATE OR TERRITORY
36 OF THE UNITED STATES.

37 (ii) AN UNEXPIRED PASSPORT THAT IS ISSUED BY THE UNITED STATES
38 DEPARTMENT OF STATE.

39 (iii) AN UNEXPIRED IDENTIFICATION CARD THAT IS ISSUED BY ANY BRANCH OF
40 THE UNITED STATES ARMED FORCES.

41 (iv) ANY OTHER UNEXPIRED IDENTIFICATION CARD THAT IS ISSUED BY THE
42 UNITED STATES GOVERNMENT OR A STATE OR TRIBAL GOVERNMENT, THAT CONTAINS THE
43 INDIVIDUAL'S PHOTOGRAPH, SIGNATURE AND PHYSICAL DESCRIPTION AND THAT CONTAINS
44 THE INDIVIDUAL'S HEIGHT, WEIGHT, COLOR OF HAIR AND COLOR OF EYES.

1 ~~(b)~~ (v) The oath or affirmation of a credible person who is
2 personally known to the notary and who personally knows the individual.

3 ~~(c)~~ (vi) The oath or affirmation of a credible person who personally
4 knows the individual and who provides satisfactory evidence of identity
5 pursuant to ITEM (i), (ii), (iii) OR (iv) OF THIS subdivision ~~(a) of this~~
6 paragraph.

7 ~~(d)~~ (vii) Personal knowledge of the individual by the notary.

8 ~~(e)~~ (b) IN ADDITION TO THE PROVISIONS OF SUBDIVISION (a), for the
9 purposes of a real estate conveyance or financing, ~~THAT PROOF OF IDENTITY~~
10 MAY BE EVIDENCED BY ONE OF THE FOLLOWING:

11 (i) A valid unexpired passport that is issued by the United States
12 government ~~or any other national government.~~

13 (ii) A VALID UNEXPIRED passport THAT IS issued by a national
14 government other than the United States government ~~must be~~ AND THAT IS
15 accompanied by a valid UNEXPIRED visa or other documentation THAT IS issued
16 by the United States government AND THAT IS necessary to establish an
17 individual's legal presence in the United States.

18 (iii) ANY OTHER VALID UNEXPIRED IDENTIFICATION THAT IS DEEMED
19 ACCEPTABLE BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO ESTABLISH
20 AN INDIVIDUAL'S LEGAL PRESENCE IN THE UNITED STATES AND THAT IS ACCOMPANIED
21 WITH SUPPORTING DOCUMENTS AS REQUIRED BY THE UNITED STATES DEPARTMENT OF
22 HOMELAND SECURITY.

23 Sec. 5. Section 41-312, Arizona Revised Statutes, is amended to read:
24 41-312. Appointment; term; oath and bond; training courses; fee

25 A. The secretary of state may appoint notaries public in each county
26 to hold office for four years who shall have jurisdiction in the county in
27 which they reside and in which they are appointed. Acknowledgments of
28 documents may be taken and executed and oaths may be administered by a notary
29 public in any county of the state although the commission is issued to the
30 notary public in and for another county.

31 B. The secretary of state shall give notice of the appointment to the
32 person appointed who shall take, within twenty days after receiving such
33 notice, the oath prescribed by law and give a bond, with sureties approved by
34 the state, in an amount prescribed by the secretary of state and file it with
35 the secretary of state. ~~Upon~~ ON filing the official oath and bond, the
36 secretary of state shall deliver the commission to such person.

37 C. A notary public is a public officer commissioned by this state and
38 the following apply without regard to whether the notary public's employer or
39 any other person has paid the fees and costs for the commissioning of the
40 notary public, including costs for the official seal and journals:

41 1. A notary public's official seal and commission and any journal that
42 contains only public record entries remain the property of the notary public.

43 2. A notary public may perform notarizations outside the workplace of
44 the notary's employer except during those times normally designated as the
45 notary public's hours of duty for that employer. All fees received by a

1 notary public for notarial services provided while not on duty remain the
2 property of the notary public.

3 3. An employer of a notary public shall not limit the notary public's
4 services to customers or other persons designated by the employer.

5 D. A notary public shall continue to serve until the notary public's
6 commission expires, the notary public resigns the commission, the notary
7 public dies or the secretary of state revokes the commission. An employer
8 may not cancel the notary bond or notary commission of any notary public who
9 is an employee and who leaves that employment.

10 E. A notary public shall comply with all of the following:

11 1. Be at least eighteen years of age.

12 2. Be a citizen or a legal permanent resident of the United States.

13 3. Be a resident of this state for income tax purposes and claim the
14 individual's residence in this state as the individual's primary residence on
15 state and federal tax returns.

16 4. Except as provided in section 41-330, subsection A, paragraph 2,
17 never have been convicted of a felony.

18 5. Keep as a reference a manual that is approved by the secretary of
19 state and that describes the duties, authority and ethical responsibilities
20 of notaries public.

21 F. An applicant for appointment and commission as a notary public
22 shall complete an application form prescribed by the secretary of state.
23 Except for the applicant's name and business address, all information on the
24 application is confidential and may not be disclosed to any person other than
25 the applicant, the applicant's personal representative or an employee or
26 officer of the federal, state or local government who is acting in an
27 official capacity. The secretary of state shall use the information
28 contained on the application only for carrying out the purposes of this
29 article.

30 G. ~~The~~ THIS state or any of its political subdivisions may pay the
31 fees and costs for the commissioning of a notary public who is an employee of
32 this state or any of its political subdivisions and who performs notarial
33 services in the course of the notary public's employment or for the
34 convenience of public employees.

35 H. THE SECRETARY OF STATE MAY REQUIRE THAT APPLICANTS ATTEND A NOTARY
36 TRAINING COURSE BEFORE RECEIVING THEIR COMMISSIONS AND NOTARIES ATTEND A
37 NOTARY TRAINING COURSE WITHIN NINETY DAYS BEFORE RENEWING THEIR
38 COMMISSIONS. THE SECRETARY OF STATE MAY ASSESS A FEE PRESCRIBED BY THE
39 SECRETARY OF STATE FOR ADMINISTERING NOTARY TRAINING COURSES. THE SECRETARY
40 OF STATE SHALL DEPOSIT THE FEES COLLECTED IN THE NOTARY EDUCATION FUND
41 ESTABLISHED BY SECTION 41-332.

42 Sec. 6. Section 41-313, Arizona Revised Statutes, is amended to read:

43 41-313. Duties

44 A. Notaries public shall perform the following notarial acts, when
45 requested:

1 1. Take acknowledgments and give certificates of the acknowledgments
2 endorsed on or attached to the instrument.

3 2. Administer oaths and affirmations.

4 3. Perform jurats.

5 4. Perform copy certification.

6 B. Notaries public shall:

7 1. Keep, maintain and protect as a public record a journal of all
8 official acts performed by the notary as described in section 41-319.

9 2. Provide and keep the official seal that is imprinted in dark ink
10 with the words "notary public", the name of the county in which the notary is
11 commissioned, the name of the notary as it appears on the notarial
12 application, the great seal of the state of Arizona and the expiration date
13 of the notarial commission.

14 3. Authenticate with the official seal all official acts, ~~and affix~~
15 ~~the date of the expiration of the notary's commission as the notary on every~~
16 certificate or acknowledgment signed and sealed by the notary.

17 4. Respond to any requests for information and comply with any
18 investigations that are initiated by the secretary of state or the attorney
19 general.

20 Sec. 7. Section 41-330, Arizona Revised Statutes, is amended to read:

21 41-330. Grounds for refusal, revocation or suspension of
22 commission

23 A. The secretary of state may refuse to appoint any person as a notary
24 public or may revoke or suspend the commission of any notary public for any
25 of the following reasons:

26 1. Substantial and material misstatement or omission in the
27 application for a notary public commission that is submitted to the secretary
28 of state.

29 2. Conviction of a felony unless restored to civil rights, or of a
30 lesser offense involving moral turpitude or of a nature that is incompatible
31 with the duties of a notary public. A conviction after a plea of no contest
32 is deemed to be a conviction for purposes of this paragraph.

33 3. Revocation, suspension, restriction or denial of a professional
34 license if that action was for misconduct, dishonesty or any cause that
35 substantially relates to the duties or responsibilities of a notary public.

36 4. Failure to discharge fully and faithfully any of the duties or
37 responsibilities required of a notary public.

38 5. The use of false or misleading advertising in which the notary
39 public has represented that the notary public has duties, rights or
40 privileges that the notary public does not possess by law.

41 6. Charging more than the fees authorized by statute or rule.

42 7. The commission of any act involving dishonesty, fraud or deceit
43 with the intent to substantially benefit the notary public or another person
44 or to substantially injure another person.

1 8. Failure to complete the acknowledgment or jurat at the time the
2 notary's signature and seal are affixed to the document.

3 9. Failure to administer the oath or affirmation required at the time
4 of performing a jurat for an individual.

5 10. Execution of any notarial certificate by the notary public
6 containing a statement known by the notary public to be false.

7 11. The return for insufficient funds or any other reason for
8 nonpayment of a check issued for the bond filing fees or the application fees
9 to the secretary of state.

10 12. Notarizing a document that contains no notarial certificate.

11 B. If an application is denied, the secretary of state shall notify
12 the applicant within thirty days after receipt of the application and shall
13 state the reasons for the denial.

14 C. The secretary of state may suspend the commission of a notary for
15 at least thirty days and for not more than one hundred eighty days.

16 D. If a person has had a notary commission in this state revoked, the
17 secretary of state may refuse to AGAIN appoint the person as a notary public
18 ~~for four years from the date of the revocation~~ FOR AN INDEFINITE PERIOD OF
19 TIME.

20 E. On revocation or suspension of a notary public's commission, the
21 secretary of state shall give notice to the notary public and shall provide
22 the person with notice of the opportunity for a hearing on the revocation or
23 suspension pursuant to chapter 6, article 10 of this title. The revocation
24 or suspension of a notary public commission is an appealable agency action.

25 Sec. 8. Title 41, chapter 2, article 2, Arizona Revised Statutes, is
26 amended by adding section 41-332, to read:

27 41-332. Notary education fund

28 THE NOTARY EDUCATION FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED
29 PURSUANT TO SECTION 41-312. THE SECRETARY OF STATE SHALL ADMINISTER THE
30 FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

31 Sec. 9. Section 41-351, Arizona Revised Statutes, is amended to read:

32 41-351. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Approved time stamp provider" means a person or organization
35 recognized by the secretary of state as capable of reliably providing time
36 stamp services on notary service electronic documents.

37 2. "Electronic" means relating to technology having electrical,
38 digital, magnetic, wireless, optical, electromagnetic or similar
39 capabilities.

40 3. "Electronic acknowledgment" means a notarial act in which an
41 electronic notary electronically certifies that the signer, whose identity is
42 proven by satisfactory evidence, either:

43 (a) Appeared before the electronic notary and acknowledged that the
44 signer executed the instrument.

1 (b) Provided secure electronic acknowledgment that the signer executed
2 the electronic instrument presented to the electronic notary.

3 4. "Electronic commission" means the written authority to perform
4 electronic notarization acts.

5 5. "Electronic document" means any record created, generated, sent,
6 communicated, received or stored by electronic means.

7 6. "Electronic jurat" means an electronic notarial act in which the
8 electronic notary certifies that a signer, whose identity is proven by
9 satisfactory evidence, has made in the electronic notary's presence a
10 voluntary electronic signature or mark and has taken an oath or affirmation
11 vouching for the truthfulness of the signed electronic document.

12 7. "Electronic notary public" or "electronic notary" means any person
13 commissioned to perform notarial acts under this article.

14 8. "Electronic notary token" means the electronic attachment to a
15 notarized electronic document that is attached by the electronic notary and
16 that contains the notary's electronic signature. The electronic notary token
17 is linked to the electronic document to which it relates in a manner so that
18 if the document is changed the electronic notary token is invalidated.

19 9. "Electronic signature" means an electronic method or process that
20 through the application of a security procedure allows a determination that
21 the electronic signature at the time it was executed was all of the
22 following:

23 (a) Unique to the person using it.

24 (b) Capable of verification.

25 (c) Under the sole control of the person using it.

26 (d) Linked to the electronic document to which it relates in a manner
27 so that if the document is changed the electronic signature is invalidated.

28 10. "Notary service electronic certificate" means the materials and
29 methods issued by an electronic notary to a prospective signer so that signer
30 may create a notary service electronic signature.

31 11. "Notary service electronic signature" means an act completed by a
32 signer using a properly issued notary service electronic certificate to sign
33 an electronic document.

34 12. "Oath" or "affirmation" means an act in which a person makes a vow
35 in the presence of the electronic notary under penalty of perjury, with
36 reference made to a supreme being in the case of an oath.

37 13. "Personal knowledge of identity" means familiarity with an
38 individual resulting from interactions with that individual over a sufficient
39 time to eliminate reasonable doubt that the individual has the identity
40 claimed.

41 14. "Satisfactory evidence of identity" means:

42 (a) ~~that~~ Proof of identity is evidenced by one of the following:

43 ~~(a) At least one current form of identification issued by a federal,~~
44 ~~state or tribal government with the individual's photograph, signature and~~
45 ~~written physical description.~~

1 (i) AN UNEXPIRED DRIVER LICENSE THAT IS ISSUED BY A STATE OR TERRITORY
2 OF THE UNITED STATES.

3 (ii) AN UNEXPIRED PASSPORT THAT IS ISSUED BY THE UNITED STATES
4 DEPARTMENT OF STATE.

5 (iii) AN UNEXPIRED IDENTIFICATION CARD THAT IS ISSUED BY ANY BRANCH OF
6 THE UNITED STATES ARMED FORCES.

7 (iv) ANY OTHER UNEXPIRED IDENTIFICATION CARD THAT IS ISSUED BY THE
8 UNITED STATES GOVERNMENT OR A STATE OR TRIBAL GOVERNMENT, THAT CONTAINS THE
9 INDIVIDUAL'S PHOTOGRAPH, SIGNATURE AND PHYSICAL DESCRIPTION AND THAT CONTAINS
10 THE INDIVIDUAL'S HEIGHT, WEIGHT, COLOR OF HAIR AND COLOR OF EYES.

11 ~~(b)~~ (v) The oath or affirmation of a credible person who is
12 personally known to the electronic notary and who personally knows the
13 individual signer.

14 ~~(c)~~ (vi) The oath or affirmation of a credible person who personally
15 knows the individual and who provides satisfactory evidence of identity
16 pursuant to ITEM (i), (ii), (iii) OR (iv) OF THIS subdivision ~~(a) of this~~
17 ~~paragraph.~~

18 ~~(d)~~ (vii) Personal knowledge of the individual signer by the
19 electronic notary.

20 ~~(e)~~ (b) IN ADDITION TO THE PROVISIONS OF PARAGRAPH 14, SUBDIVISION
21 (a) OF THIS SECTION, for the purposes of a real estate conveyance or
22 financing, THAT PROOF OF IDENTITY MAY BE EVIDENCED BY ONE OF THE FOLLOWING:

23 (i) A valid unexpired passport that is issued by the United States
24 government ~~or any other national government.~~

25 (ii) A VALID UNEXPIRED passport THAT IS issued by a national
26 government other than the United States government ~~must be~~ AND THAT IS
27 accompanied by a valid UNEXPIRED visa or other documentation THAT IS issued
28 by the United States government AND THAT IS necessary to establish an
29 individual's legal presence in the United States.

30 (iii) ANY OTHER VALID UNEXPIRED IDENTIFICATION THAT IS DEEMED
31 ACCEPTABLE BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO ESTABLISH
32 AN INDIVIDUAL'S LEGAL PRESENCE IN THE UNITED STATES AND THAT IS ACCOMPANIED
33 WITH SUPPORTING DOCUMENTS AS REQUIRED BY THE UNITED STATES DEPARTMENT OF
34 HOMELAND SECURITY.

35 15. "Time stamp token" means a secure electronic method to affix a
36 statement of the time and date that the document was recognized as a valid
37 notary service electronic document by an approved time stamp provider. A
38 time stamp token is attached by an approved time stamp provider to the
39 document in a way that if the document changes the time stamp token is
40 invalidated.

41 Sec. 10. Section 41-353, Arizona Revised Statutes, is amended to read:
42 41-353. Appointment; term; bond; duties

43 A. The secretary of state may appoint electronic notaries public to
44 hold office for four years.

1 B. The secretary of state shall prescribe the application form for an
2 electronic notary. Applicants shall submit the application to the secretary
3 of state with a filing fee, a bond and a bond filing fee as prescribed by
4 rule by the secretary of state.

5 C. The materials and methods for creating notary service electronic
6 certificates and any other encryption based technologies used by an
7 electronic notary shall have a maximum useful life of two years and shall not
8 exceed the life of the electronic notary commission.

9 D. An electronic notary public is a public officer commissioned by
10 this state and the following apply without regard to whether the electronic
11 notary public's employer or any other person has paid the fees and costs for
12 the commissioning of the electronic notary public, including costs for the
13 materials and methods employed with the electronic notary token and the
14 materials and methods for creating notary service electronic certificates and
15 journals:

16 1. All of the following remain the property of the electronic notary:

17 (a) The materials and methods employed with and solely for the
18 electronic notary token.

19 (b) The materials and methods used solely for creating notary service
20 electronic certificates.

21 (c) Any journals containing only public information record entries.

22 2. Notwithstanding paragraph 1 of this subsection, an electronic
23 notary does not gain ownership or presumptive access rights to any of an
24 employer's assets or resources that are used or are usable for a purpose
25 other than electronic notarial acts.

26 3. An electronic notary may perform electronic notarizations outside
27 the workplace of the electronic notary's employer except during those times
28 normally designated as the electronic notary's hours of duty for that
29 employer. All fees received by an electronic notary for electronic notarial
30 services provided while not on duty remain the property of the electronic
31 notary.

32 4. An employer of an electronic notary shall not limit the electronic
33 notary's services to customers or other persons designated by the employer.

34 E. An electronic notary public shall continue to serve until the
35 electronic notary's commission expires, the electronic notary resigns the
36 commission, the electronic notary dies or the secretary of state suspends or
37 revokes the commission. An employer shall not cancel the electronic notary
38 bond or electronic notary commission of any electronic notary who is an
39 employee and who leaves that employment.

40 F. An electronic notary shall comply with all of the following:

41 1. Be at least eighteen years of age.

42 2. BE A CITIZEN OR A LEGAL PERMANENT RESIDENT OF THE UNITED STATES.

43 ~~2.~~ 3. Be a resident of this state for income tax purposes and claim
44 the individual's residence in this state as the individual's primary
45 residence on state and federal tax returns.

1 ~~3.~~ 4. Except as provided in section 41-368, subsection A, paragraph
2 2, never have been convicted of a felony.

3 ~~4.~~ 5. Keep as a reference a manual that is approved by the secretary
4 of state and that describes the duties, authority and ethical
5 responsibilities of electronic notaries public.

6 G. An applicant for appointment and commission as an electronic notary
7 shall complete an application form prescribed by the secretary of state.
8 Except for the applicant's name, physical business address, electronic
9 business address and business telephone number, all other information on the
10 application is confidential and shall not be disclosed to any person other
11 than the applicant, the applicant's personal representative or an officer or
12 employee of the federal government or this state or its political
13 subdivisions who is acting in an official capacity. The secretary of state
14 shall use the information contained on the application only for carrying out
15 the purposes of this article.

16 H. The state or any of its political subdivisions may pay the fees and
17 costs for the commissioning of an electronic notary who is an employee of
18 this state or any of its political subdivisions and performs electronic
19 notarial services in the course of the electronic notary's employment or for
20 the convenience of public employees.

21 Sec. 11. Repeal

22 Section 41-356, Arizona Revised Statutes, is repealed.

23 Sec. 12. Section 44-1272, Arizona Revised Statutes, is amended to
24 read:

25 44-1272. Telephone seller; registration; late filing penalty

26 A. A seller shall file a verified registration statement with the
27 secretary of state before the seller solicits any consumer from a location in
28 this state or any consumer located in this state. Each principal of the
29 seller shall sign the registration statement, have the signature notarized
30 and file the statement with the secretary of state along with the annual
31 registration fee prescribed by section 44-1275. The registration statement
32 expires on June 30 of each year and shall be annually renewed by completing a
33 new registration statement within thirty days before expiration. IF A SELLER
34 IS DELINQUENT IN FILING ITS ANNUAL REGISTRATION STATEMENT, THE SECRETARY OF
35 STATE MAY ASSESS A LATE FILING PENALTY WHEN THE SELLER SUBMITS ITS ANNUAL
36 REGISTRATION STATEMENT.

37 B. If, before the expiration of a seller's annual registration, there
38 is a change in any of the information required by subsection C of this
39 section, within ten days of the change the seller shall file a supplemental
40 statement with the secretary of state, except that a seller shall only update
41 quarterly any changes in solicitors hired by the seller.

42 C. Each registration statement shall contain all of the following
43 information:

44 1. The true legal name of the seller.

1 2. The name under which the seller is doing business or intends to do
2 business.

3 3. The seller's business form and state of organization.

4 4. If the seller is a corporation or limited liability company, a copy
5 of its articles of incorporation and bylaws and amendments to the bylaws. If
6 the seller is a partnership or limited liability partnership, a copy of the
7 partnership agreement. If the seller is operating under a fictitious
8 business name, the location where the fictitious name has been registered.

9 5. The complete street address of the physical location of the
10 principal place of business of the seller, the complete street address of all
11 other locations from which the seller will be conducting business and all
12 telephone numbers for telephones at these locations.

13 6. For each principal and manager, the true legal name, residence
14 address, telephone number and date of birth and a clear and legible copy of
15 the current driver license or valid government issued photo identification
16 card. A seller is not required to submit the information required in this
17 section for the seller's employees.

18 7. For each manager, the address of the business location for which
19 the manager is responsible.

20 8. For each solicitor, the solicitor's true legal name, ~~its~~ business
21 address and telephone number and, for each principal and manager of A
22 solicitor, ~~their~~ THE true legal name, residence address, telephone number and
23 date of birth and a clear and legible copy of the current driver license or
24 valid government issued photo identification card. A solicitor is not
25 required to submit the information required in this section for the
26 solicitor's employees.

27 9. The name and address of the seller's agent in this state who is
28 authorized to receive service of process in this state.

29 10. A copy of the bond filed with the state treasurer pursuant to
30 section 44-1274.

31 11. Whether a principal or manager:

32 (a) Has been convicted or pleaded no contest to a felony or
33 misdemeanor involving moral turpitude or a violation of this article.

34 (b) Has been held liable in a civil action, either by final judgment
35 or by entry of a stipulated judgment, if the civil action alleged fraud,
36 embezzlement, racketeering, fraudulent conversion or misappropriation of
37 property or a violation of this article or the use of untrue or misleading
38 representations in an attempt to sell or dispose of real or personal property
39 or the use of unfair, unlawful or deceptive business practices.

40 (c) Is subject to a currently effective injunction or restrictive
41 order relating to a business activity as a result of an action brought by a
42 public agency or department, including an action affecting a vocational
43 license. The statement shall include the name of the court, the date of the
44 conviction, the judgment, order or injunction and, if applicable, the name of

1 the governmental agency that filed the action resulting in the conviction,
2 judgment, order or injunction.

3 12. A copy of any:

4 (a) Script, outline or presentation the seller will require or suggest
5 that a solicitor use, except that if the seller does not require or suggest a
6 script, outline or presentation, a statement that no such document is
7 required or suggested.

8 (b) Sales information and literature provided by the seller to a
9 solicitor or described by the seller for use by the solicitor, including
10 scripts, outlines, presentations, information on how to conduct telephone
11 sales, sample instructions, sample closings, product information and contest
12 or premium award information.

13 (c) Sales information and any other literature provided by the seller
14 to a consumer in connection with any solicitation.

15 D. If a seller expressly represents or implies to any consumer,
16 directly or through a solicitor, that the consumer is or may be eligible to
17 receive any premium, the seller shall submit with the registration statement
18 another statement setting forth for each premium mentioned:

19 1. A description of the premium.

20 2. The value or worth of the premium and the basis for the valuation.

21 3. All terms and conditions a consumer must satisfy in order to
22 receive the premium.

23 4. The odds of being able to receive the premium, and if the odds are
24 not calculable in advance, the factors used in calculating the odds.

25 5. If the consumer will receive fewer than all of the premiums
26 described by the seller:

27 (a) The manner in which the seller decides which premium the consumer
28 will receive.

29 (b) The odds of being able to receive each premium, and if the odds
30 are not calculable in advance, the factors used in calculating the odds.

31 (c) The name and address of each person who within the past twelve
32 months has received the premium having the greatest value and the
33 premium with the smallest odds of being received.

34 E. If the seller expressly ~~or impliedly~~ represents OR IMPLIES to any
35 consumer, directly or through a solicitor, that the seller can or may be able
36 to make a loan, arrange a loan, assist in arranging a loan or assist in
37 providing information that may lead to obtaining a loan, the seller shall
38 submit with the registration statement another statement setting forth:

39 1. For the previous twenty-four months, the names and addresses of any
40 person who lent money to:

41 (a) Consumers who responded to the solicitations of the seller's
42 predecessor or the seller's officers or owners or those persons having
43 present management responsibilities or to companies with which they were
44 associated.

1 (b) The seller's predecessor or the seller's officers or owners or
2 those persons having present management responsibilities or to those
3 companies with which they were associated for them to lend to consumers who
4 responded to solicitations.

5 2. For the twelve months after the date of the registration, the names
6 and addresses of all persons who informed the seller that they may be able to
7 lend money to consumers solicited by the seller or to the seller for the
8 seller to lend to consumers who respond to the seller's representations that
9 the seller can make a loan, arrange a loan, assist in arranging a loan or
10 assist in providing information that can lead to obtaining a loan.

11 3. Copies of all contracts between the seller and lenders or
12 prospective lenders who may lend money:

13 (a) To the seller to lend to consumers who, in conjunction with the
14 seller's business, respond to the seller's representations that the seller
15 can make a loan, arrange a loan, assist in arranging a loan or assist in
16 providing information that can lead to obtaining a loan.

17 (b) Directly to consumers to whom the seller may represent that it can
18 arrange or assist in providing information that can lead to obtaining a loan.

19 F. If any change is made to any script, outline, presentation, sales
20 information or literature to be used by a seller during any solicitation, the
21 seller shall submit the new or revised material before it is used.

22 G. Compliance with the registration and filing requirements of this
23 article by a seller does not constitute an approval or endorsement by this
24 state of the seller's registration documents or conduct.

25 Sec. 13. Repeal

26 Title 44, chapter 11, article 2, Arizona Revised Statutes, is repealed.

27 Sec. 14. Section 44-6552, Arizona Revised Statutes, is amended to
28 read:

29 44-6552. Charitable organizations; registration; late
30 registration penalty

31 A. Except as provided in subsection E of this section and section
32 44-6553, before soliciting its first contribution, whether through a
33 contracted fund raiser or otherwise ~~and each September thereafter~~, a
34 charitable organization shall file a registration statement with the
35 secretary of state in a format prescribed and adopted by the secretary of
36 state by rule.

37 B. A CHARITABLE ORGANIZATION MUST FILE AN ANNUAL REGISTRATION
38 STATEMENT BETWEEN SEPTEMBER 1 AND SEPTEMBER 30 OF EACH YEAR FOLLOWING THE
39 CALENDAR YEAR IN WHICH THE CHARITABLE ORGANIZATION FILES ITS INITIAL
40 REGISTRATION STATEMENT WITH THE SECRETARY OF STATE IN A FORMAT THAT IS
41 PRESCRIBED AND ADOPTED BY THE SECRETARY OF STATE BY RULE.

42 ~~B.~~ C. If the internal revenue service determines that a person is a
43 charitable organization exempt from federal income taxes pursuant to section
44 501(c)(3) of the internal revenue code, then at the time of its initial
45 registration under this section, the organization shall submit to the

1 secretary of state a copy of the internal revenue service's written
2 determination that it is exempt from taxes.

3 ~~G.~~ D. The secretary of state shall file and preserve all information
4 required to be filed with the secretary of state pursuant to this section for
5 five years from the date of filing, after which the information may be
6 destroyed. This information is public information and is open to public
7 inspection.

8 ~~D. The secretary of state may deliver by certified mail a notice of~~
9 ~~failure to file a registration statement pursuant to this section to any~~
10 ~~charitable organization that is required to file a registration statement and~~
11 ~~that fails to comply with the registration requirements of this section. The~~
12 ~~charitable organization shall comply with the registration requirements of~~
13 ~~this section within thirty days after receiving the notice from the secretary~~
14 ~~of state and shall pay a late registration penalty of twenty five dollars. If~~
15 ~~the charitable organization does not comply with the requirements of this~~
16 ~~subsection, the charitable organization is guilty of a class 1 misdemeanor.~~

17 E. IF A CHARITABLE ORGANIZATION IS DELINQUENT IN FILING ITS ANNUAL
18 REGISTRATION STATEMENT, THE SECRETARY MAY ASSESS A LATE REGISTRATION PENALTY
19 OF TWENTY-FIVE DOLLARS WHEN THE CHARITABLE ORGANIZATION FILES ITS
20 REGISTRATION STATEMENT.

21 ~~E.~~ F. Instead of filing any financial disclosure information
22 prescribed by the secretary of state pursuant to this section, a tax exempt
23 organization pursuant to section 501(c)(3) of the internal revenue code may
24 either:

25 1. File with the secretary of state a copy of the organization's
26 annual information return for the preceding fiscal year as defined in the
27 internal revenue code and applicable regulations.

28 2. Provide the secretary of state with the address on the internet
29 where the organization's annual information return is available.

30 ~~F.~~ G. Any charitable organization that is a bona fide and duly
31 constituted religious institution and any other entity that is an integral
32 part of a religious institution shall file the registration statement
33 prescribed in this section but is not required to file any financial
34 disclosure information prescribed by the secretary of state pursuant to this
35 section if all of the following apply:

36 1. The religious institution or entity is a tax exempt institution or
37 entity pursuant to the internal revenue code.

38 2. No part of the religious institution's or entity's net income
39 inures to the direct benefit of any individual.

40 3. The religious institution or entity only solicits monies from the
41 institution's or entity's membership, congregation or previous donors and the
42 institution's or entity's conduct and fees charged for services are primarily
43 supported and paid through government grants or contracts.

44 ~~G.~~ H. The secretary of state may deny an application for registration
45 of the name of a charitable organization if:

1 1. The name might mislead the public or is not readily distinguishable
2 from one or more names that are currently registered under this article.

3 2. The name is the same as or deceptively similar to:

4 (a) An existing corporate name or a corporate name reserved pursuant
5 to title 10, chapter 4, 18 or 22 27.

6 (b) The name of a limited partnership organized under the laws of this
7 state or licensed or registered as a foreign limited liability company,
8 authorized to transact business in the state or a name that is registered
9 pursuant to chapter 10, article 3 or 3.1 of this title.

10 ~~H.~~ I. The secretary of state may deny an application for registration
11 or may revoke the registration of a charitable organization for any of the
12 following reasons:

13 1. Substantial and material misstatement or omission in the submitted
14 application.

15 2. Conviction of a felony substantially related to solicitation by any
16 employee, member, officer or director who has any solicitation
17 responsibilities on behalf of the organization or any other person holding
18 any proprietary or beneficial interest in the charitable organization, unless
19 the civil rights have been restored.

20 3. An order or judgment by a court in any jurisdiction that the
21 charitable organization has engaged in deceptive, fraudulent or unlawful
22 business practices that substantially relate to solicitation.

23 4. ~~Violating~~ THE VIOLATION OF any provision of this article.

24 5. The return of a check issued to the order of the secretary of state
25 due to insufficient funds or any other reason for nonpayment.

26 ~~I.~~ J. If the secretary of state denies an application, the secretary
27 of state shall notify the applicant within ten days after receiving the
28 application and shall state the reasons for the denial.

29 Sec. 15. Section 44-6561, Arizona Revised Statutes, is amended to
30 read:

31 44-6561. Unlawful acts or practices; violation; classification;
32 civil penalty

33 A. The following acts and practices are unlawful as applied to the
34 planning, conduct or execution of a solicitation and constitute unlawful
35 practices under section 44-1522 that the attorney general may investigate and
36 for which ~~he~~ THE ATTORNEY GENERAL may take appropriate action as prescribed
37 by chapter 10, article 7 of this title:

38 1. Knowingly utilizing an emblem, device or printed matter belonging
39 to or associated with a charitable organization without first being
40 authorized in writing to do so by the charitable organization.

41 2. Knowingly utilizing a name, symbol or statement so closely related
42 or similar to that used by another charitable organization for the purpose of
43 misleading a solicited person.

44 3. Knowingly making a misrepresentation to a person that the person on
45 whose behalf a solicitation is being conducted is a charitable organization.

1 4. Knowingly making a representation to a person that another person
2 sponsors, endorses or approves the solicitation if the other person has not
3 given consent in writing to the use of ~~his~~ THAT PERSON'S name for these
4 purposes.

5 5. Knowingly representing to a person that the registration
6 constitutes an endorsement or approval by this state.

7 6. Knowingly failing to post in a clear and conspicuous manner at a
8 location in which a charitable organization or other business entity receives
9 donated items for the purpose of reselling the items to financially benefit a
10 charitable organization one of the following statements:

11 (a) This collection site is owned by [name of charity], a charitable
12 organization. Donated items received at this location will support the
13 charitable mission of [name of charity].

14 (b) This collection site is owned by [name of company], a for-profit
15 company. Donated items received at this location will be sold by [name of
16 company] with a portion of the proceeds benefiting [name of charity].

17 B. Except as provided in ~~section 44-6552, subsection D or subsection~~
18 C of this section, a person who fails to register or provide reports as
19 provided by this article or who otherwise fails to comply with any provision
20 of this article is guilty of a class 1 misdemeanor.

21 C. A contracted fund raiser who knowingly conducts any act or practice
22 proscribed in subsection A of this section is guilty of a class 6 felony.

23 D. An independent solicitor who knowingly conducts any act or practice
24 proscribed in subsection A of this section or who fails to comply with
25 section 44-6555, subsection D is guilty of a class 1 misdemeanor.

26 E. In addition to the criminal offenses provided in subsections B, C
27 and D of this section, if a person conducts an act or practice proscribed in
28 subsection A of this section, the attorney general may recover from the
29 person on behalf of the state a civil penalty of not more than one thousand
30 dollars per violation. The civil penalty prescribed by this subsection is in
31 lieu of the penalty prescribed by section 44-1531.

32 F. For the purposes of subsection A, paragraph 6 of this section, an
33 entity owns a collection site if the entity receives at least fifty-one per
34 cent of the proceeds generated by the retail sale of the donated items
35 received at the collection site.

36 Sec. 16. Laws 2008, chapter 291, section 9 is amended to read:

37 Sec. 9. Delayed implementation; professional employer
38 organization registration; retroactivity

39 A. Notwithstanding any other law, the secretary of state shall not
40 implement title 23, chapter 3, article 4, Arizona Revised Statutes, relating
41 to professional employer organization registration, or any rules adopted
42 pursuant to title 23, chapter 3, article 4, Arizona Revised Statutes, until
43 July 1, ~~2010~~ 2012.

44 B. This section is effective retroactively to from and after February
45 29, 2008.

APPROVED BY THE GOVERNOR MAY 11, 2010.

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FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2010.